

SUPPLEMENTAL

STAFF REPORT

Meeting Date: March 16, 2005

Agenda Item 10

TO: LAFCO Commissioners

FROM: Everett Millais, Executive Officer

SUBJECT: LAFCO 04-02 Ojai Valley Sanitary District Annexation - Rennacker

RECOMMENDATION (SUPPLEMENTAL – REVISED):

- A. Certify that the Commission has reviewed and considered the information contained in the CEQA Notice of Exemption prepared by the Ojai Valley Sanitary District as lead agency, dated March 4, 2005, and determine that the change of organization is exempt under Section 15319(b) of the CEQA Guidelines.
- B. Adopt the attached, REVISED resolution (LAFCO 05-02) making determinations and approving the Ojai Valley Sanitary District Annexation – Rennacker.

DISCUSSION:

Since the original staff report for this case was prepared, information has been submitted that indicates the affected property owners may not be able to connect to the Ojai Valley Sanitary District. This information, a by-law amendment adopted by the Upper Foothill Road Property Owners Association, is the potential cause for a dispute between the affected property owners (Mr. Rennacker and his wife) and the Upper Foothill Road Property Owners Association about the use of the private roadway easement described in the original staff report. Information provided by the Upper Foothill Road Property Owners Association about this by-law amendment was distributed with the Commission's agenda packet.

COMMISSIONERS AND STAFF

COUNTY: Linda Parks, Vice Chair Kathy Long <i>Alternate:</i> Steve Bennett	CITY: Don Waunch John Zaragoza <i>Alternate:</i> Janice Parvin	SPECIAL DISTRICT: Dick Richardson, Chair Ted Grandsen <i>Alternate:</i> George Lange	PUBLIC: Kenneth M. Hess <i>Alternate:</i> Louis Cunningham
EXECUTIVE OFFICER: Everett Millais	LAFCO ANALYST: Kim Uhlich	OFFICE MANAGER/CLERK: Debbie Schubert	LEGAL COUNSEL: Leroy Smith

From a LAFCO perspective, this potential dispute is strictly a private matter. There is no role for LAFCO, or for the Ojai Valley Sanitary District as the project proponent/applicant, in resolving this dispute. The application to LAFCO and the recommendation for approval are predicated on the ability of the Ojai Valley Sanitary District to serve the affected territory. If for any reason the District is unable to serve the affected territory, there is no rationale for the annexation proceedings to be completed.

In order to address the uncertainty caused by the Upper Foothill Road Property Owners Association by-law amendment, the attached, revised Resolution is now recommended. The attached, revised Resolution recognizes the new information and this Supplemental Staff Report and includes a new term and condition (no. 9). The new condition provides that the annexation will not occur unless it is certain that the Ojai Valley Sanitary District can provide service to the affected territory. To achieve this certainty the condition also allows the Ojai Sanitary District to provide a service connection before annexation proceedings are completed.

LAFCO has authority to apply a variety of terms and conditions to change of organization (annexation) proposals, including conditions about the provision of a previously authorized service. The new condition 9 in the attached, revised Resolution authorizes the Ojai Valley Sanitary District to provide a service connection outside its jurisdictional boundaries but within the District's sphere of influence in anticipation of the completion of proceedings for the annexation. Thus, a sewer connection is authorized and, per the condition, must occur before annexation. The effect of the condition also means that before annexation occurs any private property disputes about the ability to install sewer lines necessary for a service connection will first need to be resolved. Further, the affected property owners will have to determine that no other means of service is reasonably possible, and will have to complete construction of service lines and make a service connection, before annexation is complete.

Government Code Section 57001 provides that if a certificate of completion for a change of organization has not been filed within one year after the Commission approves a proposal, the proceeding shall be deemed abandoned. Thus, if the Commission approves the attached, revised Resolution, the affected property owners and the Ojai Valley Sanitary District will have one year (to March 16, 2006) to establish a service connection. If the service connection is established within a year, the annexation proceeding will be recorded and completed assuming the other terms and conditions of approval are met. If a service connection is not established within a year, the annexation will not be completed and the proceedings will be deemed abandoned. No further action by the Commission will be necessary unless the Ojai Valley Sanitary District requests some extension beyond the one-year time frame.

The Commission should also be aware that County Environmental Health Division staff met with the affected property owners on Thursday, March 10, to conduct tests on the property to attempt to definitively determine whether or not any type of on-site wastewater treatment system could be permitted. As of the preparation of this Supplemental Staff Report, however, LAFCO staff has not been advised about the results of these tests. However, the attached, revised Resolution, via condition 9, also addresses this aspect of the proposal. If some type of on-site wastewater treatment system is possible and the affected owners choose to install such a system, then there will be no connection to the Ojai Valley Sanitary District's facilities and no annexation will occur.

Lastly, enclosed with this Supplemental Staff Report is a letter relating to this case from Kathy Couturie. This letter was inadvertently left out of the Commission's packet that was previously distributed.

LAFCO 05-02

**RESOLUTION OF THE VENTURA LOCAL AGENCY
FORMATION COMMISSION MAKING DETERMINATIONS
AND APPROVING THE OJAI VALLEY SANITARY
DISTRICT ANNEXATION – RENNACKER**

WHEREAS, the above-referenced proposal has been filed with the Executive Officer of the Ventura Local Agency Formation Commission pursuant to the Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000 (Section 56000 of the California Government Code); and

WHEREAS, at the times and in the manner required by law, the Executive Officer gave notice of the of the proposal as required by law; and

WHEREAS, the proposal was duly considered on March 16, 2005; and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony for and against the proposal including, but not limited to, the LAFCO Executive Officer's Staff Report and recommendation, the Executive officer's Supplemental Staff Report and revised recommendation, the environmental document or determination, Sphere of Influence and applicable General and Specific Plans; and

WHEREAS, all landowners within the affected territory have consented to the proposal; and

WHEREAS, proof has been given to the Commission that the affected territory has less than 12 registered voters and is considered uninhabited; and

WHEREAS, information has been provided that there may be uncertainties about the ability of the Ojai Valley Sanitary District to provide service to the affected territory due to potential private disputes about the use of a private easement; and

WHEREAS, if the Ojai Valley Sanitary District cannot serve the affected territory the annexation proceedings should not be completed; and

WHEREAS, provided the Ojai Valley Sanitary District can serve the affected territory and provide a service connection, the Local Agency Formation Commission finds the proposal to be in the best interest of the landowners and present and future inhabitants within the Ojai Valley Sanitary District and within the affected territory, and the organization of local governmental agencies within Ventura County.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Local Agency Formation Commission of Ventura County as follows:

- (1) The LAFCO Executive Officer's Staff Report dated March 16, 2005, and the Executive Officer's Supplemental Staff Report and Recommendation for approval, also dated March 16, 2005, is adopted.
- (2) The annexation to the Ojai Valley Sanitary District is hereby approved, and the boundaries are established generally as set forth in the attached Exhibit A.
- (3) The affected territory is uninhabited as defined by Government Code §56046.
- (4) The subject proposal is assigned the following distinctive short form designation: **LAFCO 05-02 OJAI VALLEY SANITARY DISTRICT ANNEXATION – RENNACKER.**
- (5) The Commission has reviewed and considered the lead agency's determination that the annexation is categorically exempt under Section 15319(b) of the California Environmental Quality Act Guidelines, and finds the annexation to be categorically exempt.
- (6) The Commission directs staff to file a Notice of Exemption in the same manner as a lead agency, under Section 15062 of the California Environmental Quality Act Guidelines.
- (7) The Commission, consistent with California Government Code Section 56663(c), hereby waives protest proceedings entirely.
- (8) **This annexation shall not be recorded until all LAFCO fees have been paid and until fees necessary for filing with the State Board of Equalization have been submitted to the Executive Officer.**
- (9) **This annexation shall not be recorded until the Executive Officer has received proof from the Ojai Valley Sanitary District that the affected territory has been connected for service. Based on this conditional annexation approval the Ojai Valley Sanitary District is hereby authorized to provide an out-of-agency service to the affected territory consistent with Government Code Section 56133 prior to the completion of proceedings, provided that immediately upon providing a service connection to the affected territory the Ojai Valley Sanitary District notifies the Executive Officer that the service connection has been made. If the Ojai Valley Sanitary District is not able to provide a service connection to the affected territory, this**

**change of organization proceeding shall not be completed and shall
be deemed abandoned pursuant to Government Code Section 57001.**

This resolution was adopted on March 16, 2005.

AYES:

NOES:

ABSTAINS:

Dated: _____
Chair, Ventura Local Agency Formation Commission

Copies: Ojai Valley Sanitary District
Ventura County Assessor
Ventura County Auditor
Ventura County Surveyor
Ventura County Planning

February 15, 2005

RECEIVED

Everett Millais, Executive Officer
Ventura LAFCO
800 S. Victoria Avenue
Ventura, CA 93009-1850

MAR 10 2005

Ventura LAFCO

Dear Mr. Millais, and LAFCO Board Members,

We are writing in regards to the Ojai Valley Sanitary District's Lee Rennacker annexation application LAFCO received last month. Everett Millais has informed us that the OVSD's application will be reviewed at your next board meeting on 3/16/05. We are an organized group of extremely alarmed area residents that oppose the OVSD, it's publicly elected board members, and Mr. Rennacker in this application. We question why the Ojai Valley Sanitary District is choosing to act in the special interests of one wealthy landowner - despite the overwhelming majority wishes of the neighborhood's constituents. We are also questioning why Mr. Rennacker is privately financing sewer construction for over one mile through a neighborhood that does not wish to be sewered. This proposed construction is particularly suspicious, considering Mr. Rennacker could choose to install a sanifiltration (mound) system, which would not require his property passing a "perk" test for septic. Nor would it cost millions of dollars, while angering hundreds of residents who oppose being sewered. Not to mention the environmental damage that will be wreaked on our historic neighborhood in the long, drawn-out process of sewer construction.

Although they were asked at their 1/24/05 meeting to inform area residents prior to voting on the Rennacker annexation, the OVSD Board elected to take no action on our behalf. Unfortunately, the OVSD and it's publicly elected board have decided to promote Mr. Rennacker's private development opportunities, and their own financial gain, with no regard for residential or environmental concerns. Although we have repeatedly directed questions about this project to Mr. John Correa, General Manager of the OVSD, he refuses to answer them. Mr. Correa refuses to inform us of the costs involved - a major concern to residents - since in 2003 sewer construction costs in our neighborhood were projected by the OVSD to be between \$40,000-\$57,900. - per parcel! Nor will Mr. Correa explain why the OVSD believes a project of this magnitude, that will directly endanger Upper Foothill resident's homes (restricting emergency vehicle access by tearing up a narrow, privately owned road), and hundreds of historic trees that are protected by the City and County, can be considered exempt from an Environmental Impact Report (CEQA).

We can find no mandate to sewer in the OVSD's bylaws, yet they persist in sewerage our neighborhood. In so doing they have caused immense grief and suffering to residents-some of whom have sold their homes in order to protect their fixed incomes from spiraling and unwanted sewer costs. Mr. Millais, we appreciate yours and your Board's time, and hope you will seriously consider our opposition when the times comes to review and vote on the Rennacker annexation.

Sincerely,



Kathy Couturie for NAPHAf - Neighborhood Alliance to Protect Historic Foothill-Arbolada
1000 Foothill Road, Ojai, CA 93023

cc: OVSD, NAPHAf members, Ventura Co. Supervisor Steve Bennett, Cathy Elliott-Jones